



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-1157]

RIN 1625-AA87

Security Zone; 24th Annual North American International Auto Show,
Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the Detroit River, Detroit, Michigan. This zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety and security of participants, visitors, and public officials at the 24th Annual North American International Auto Show (NAIAS), which is being held at Cobo Hall in downtown Detroit, MI. Vessels and persons may not enter this security zone without permission of the Captain of the Port Detroit or the COTP on-scene representative.

DATES: This rule is effective from 8 a.m. on January 8, 2012, until 12:01 a.m. on January 23, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-1157 and

are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1157 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LT Adrian Palomeque, Prevention Department, Sector Detroit, Coast Guard; telephone (313)568-9508, e-mail Adrian.F.Palomeque@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed

rulemaking (NPRM) with respect to this rule notice of this year's event was not received in sufficient time for the Coast Guard to solicit public comments before the event's start. Thus, waiting for a notice and comment period to run would be impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect the spectators of and participants in this event from the hazards discussed below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Delaying the effective date of this rule would be contrary to the public interest for the same reasons discussed in the preceding paragraph.

Background and Purpose

The 24th Annual North American International Auto Show (NAIAS) will be held at Cobo Hall in downtown Detroit, MI. The NAIAS is the prime venue for introducing the world's most anticipated vehicles. The public showing days of the NAIAS begin January 14 and extend through January 22. Prior to the public showing, there will also be multiple high profile events; including the press preview days (January 9-10, 2012), industry preview days (January 11-12, 2012), and the charity preview event (January 13, 2012). In 2011, the NAIAS attendance for the

public showing was over 735,000 people and press preview days attracted over 5,000 journalists representing 55 countries. Attendance and participation at the 2012 NAIAS is anticipated to rival last year's attendance and will likely be one of the largest media events in North America.

NAIAS has attracted numerous protesters from various organizations. Due to the current state of the economy, the recent number of layoffs, the closures of several thousand automotive dealerships around the country, and the likely presence of high profile visitors, it is possible that protests may continue to occur at this year's event. Consequently, the Captain of the Port Detroit has determined that it is necessary to safeguard portions of the Detroit River from destruction, loss, or injury from sabotage or other subversive acts.

Discussion of Rule

To safeguard portions of the Detroit River during this year's event, the Captain of the Port Detroit has determined that a temporary security zone is necessary. This security zone will ensure the safety of the participants in and visitors of the 24th Annual North American International Auto Show being held at Cobo Hall in downtown Detroit, MI. The security zone will be in effect from 8 a.m. on January 8, 2012, until 12:01 a.m. on January 23, 2012. The zone will be enforced from 8 a.m. to 12:01 a.m. daily for the duration of the event.

The security zone will encompass an area of the Detroit River beginning at a point of origin on land adjacent to the west end of Joe Lewis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land adjacent the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin. Vessels in close proximity to the security zone will be subject to increased monitoring and boarding. All geographic coordinates are North American Datum of 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene representative. Entry into, transit, or anchoring within the security zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under Order 12866 or under section 1 of Executive Order 13563.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have a minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The security zone on the Detroit River will be relatively small and exist for only a minimal time. Thus, restrictions on vessel movement within any particular area of the Detroit River are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the security zone when permitted by the Captain of the Port. We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This determination is based on the short time that vessels will be restricted from the area of water impacted by

the security zone. Moreover, vessels may still transit freely in Canadian waters adjacent to the security zone.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Detroit River, Detroit, Michigan, beginning at a point of origin on land at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land at 42° 19.79' N, 083° 01.90' W; then returning to the point of origin from 8 a.m. January 8, 2012, through 12:01 a.m. on

January 23, 2012.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In the event that this temporary security zone affects shipping, commercial vessels may request permission from the Captain of the Port Detroit to transit through the security zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the

Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because it involves the establishment of a security zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306,

3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-1157 to read as follows:

§ 165.T09-1157 Security Zone; 24th Annual North American International Auto Show, Detroit River, Detroit, MI

(a) Location. The following area is a temporary security zone: an area of the Detroit River beginning at a point of origin on land adjacent to the west end of Joe Lewis Arena at 42° 19.44' N, 083° 03.11' W; then extending offshore approximately 150 yards to 42° 19.39' N, 083° 03.07' W; then proceeding upriver approximately 2000 yards to a point at 42° 19.72' N, 083° 01.88' W; then proceeding onshore to a point on land adjacent to the Tricentennial State Park at 42° 19.79' N, 083° 01.90' W; then proceeding downriver along the shoreline to connect back to the point of origin on land adjacent to the west end of the Joe Louis Arena. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) Effective and enforcement period. This regulation is effective from 8 a.m. on January 8, 2012, until 12:01 a.m. on January 23, 2012. However, the security zone will be enforced from 8 a.m. to 12:01 a.m. daily from January 8, 2012, through January 23, 2012.

(c) Regulations. (1) In accordance with the general regulations in section 165.33 of this part, entry into, transiting, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This security zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the security zone shall contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so.

(5) Vessel operators given permission to enter or operate in the security zone shall comply with all directions given to them by the Captain of the Port Detroit or his on-scene representative.

DATED: January 5, 2012

J. E. Ogden
Captain, U. S. Coast Guard
Captain of the Port Detroit

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